

Housing Element Principles

RHNA 6th Cycle Recommendations for Monterey County Jurisdictions

Executive Summary

The goal of this paper is to articulate a menu of planning principles that can guide Monterey County jurisdictions to develop 6th Cycle housing elements consistent with state law, including Regional Housing Needs Allocations (RHNA) and AB 686's mandate to affirmatively further fair housing (AFFH).

Jurisdictions that create a Housing Element incorporating most or all of the principles as legally enforceable policy not only increase their likelihood of compliance with California state housing law but also position themselves to qualify for the competitive Prohousing Designation from the California Department of Housing and Community Development. Earning this distinction qualifies a jurisdiction for additional state affordable housing funding programs and priority processing for funding applications.

LandWatch will advocate that housing elements identify sufficient sites for affordable units, affirmatively further fair housing, and remove governmental constraints to housing production. The following principles will inform this advocacy.

1. Provide adequate zoning density and appropriate development standards to support RHNA allocations and minimize sprawl and greenhouse gas emissions
2. Remove or mitigate governmental constraints to housing production
3. Limit annexations to sites needed in the current cycle
4. Integrate affordable housing into high opportunity areas
5. Invest in lower resource communities.
6. Support incentives that create affordable (sub-market-rate) housing concurrent with market-rate housing, ideally those which adapt to market conditions.

Background

Monterey County's 6th Cycle RHNA requires planning for a total of 20,295 housing units, almost three times more than the 5th Cycle allocation.

On January 12, 2022, the Association of Monterey Bay Area Governments – the agency responsible for deciding Regional Housing Needs Allocation (RHNA) methodology – cited the following major constraints to housing development in its constituent areas, which include Monterey County and its 12 cities:

1. Capacity for sewer and water service;
2. Availability of land suitable for urban development;
3. Lands preserved or protected from urban development; and
4. County policies preserving prime agricultural land.

Water Resources

Expanding the housing supply on the Monterey Peninsula and other water-stressed areas of the County will require innovation in water sourcing. Multiple solutions exist and LandWatch will support the most ecologically and fiscally responsible sourcing for the needed supply.

According to the Monterey Peninsula Water Management District, the water supply created by Phase 2 expansion of Pure Water Monterey, scheduled to come online by late 2024, should be sufficient to accommodate 6th Cycle housing element requirements on the Monterey Peninsula.¹ LandWatch believes this to be the most ecologically and fiscally responsible solution; however, LandWatch will continue supporting any effort to expand supply that prioritizes the health of the natural environment, sufficiency of supply, and fairness to both urban ratepayers and agricultural users.

Communities outside the Peninsula, including Marina, cities in the Salinas Valley, and much of unincorporated Monterey County, are served by groundwater. These jurisdictions are required to comply with the Sustainable Groundwater Management Act. Housing should receive priority in the development of sustainable groundwater management plans.

Land and Site Selection

Monterey County jurisdictions can meet their RHNA requirements by prioritizing urban development within city limits, availing of existing infrastructure and water to support new housing. To preserve agricultural land and natural resources and avoid urban sprawl, annexations should be limited, and zoning for annexed land should reflect the mix of housing affordability needed for the jurisdiction's RHNA. Unincorporated Monterey County can meet its RHNA obligations through development in areas which already have adequate infrastructure (e.g., water, sewer, and roads), present and projected water supply, and public services (e.g., schools) and private amenities (e.g., grocery stores) to support additional housing development. Examples of such areas include Boronda, Castroville, and Pajaro Community Areas as well as the urbanized mouth of Carmel Valley. The mouth of Carmel Valley is particularly well suited to future growth because its proximity to some of the best schools in the state, access to MST buses, and alignment with AFFH requirements.

Walkable urban development, at densities high enough to support affordable housing, ensures that more homes are available for lower income working people and families, closer to jobs, and with fewer greenhouse gas emissions through reduced automobile usage.

Meeting the 6th Cycle RHNA will be challenging, yet achievable. Its success rests on going beyond planning and actually creating adequate incentives for nonprofit and private developers to build affordable housing units. Statewide private developers are responsible for approximately 85% of housing construction, so LandWatch's housing principles give special attention to providing incentives and removing disincentives to housing construction.

6th Cycle Housing Elements

¹ Water Demand Committee Meeting Item 5: Update on District's Water for Housing Initiative, David J. Stoldt, May 5, 2022; "Recycled water meeting Monterey Peninsula needs," Dennis R. Taylor, Monterey Herald, July 5th 2022

The California Department of Housing and Community Development (HCD) enforces state housing law in its reviews of jurisdictions' Housing Elements. Addressing the above constraints with enforceable plans and programs for meeting RHNA needs will be critical for HCD compliance. As of January 1st, 2022, HCD also has the authority to enforce Affirmatively Furthering Fair Housing law pursuant to AB 686 in its Housing Element review and certification process.

The 6th Cycle RHNA process in other parts of the state has already seen stricter enforcement of state housing law from HCD and this will continue in Monterey County jurisdictions. Any jurisdiction in Monterey County that fails to achieve a compliant Housing Element by December 14th, 2023 will be at risk of loss of at least eight significant state housing, planning, and transportation funding streams; loss of permitting authority; and possible financial penalties.

Under HCD guidelines, a legally compliant housing element is required to include both housing background and management actions. The required housing background includes:

1. Assessments of available sites and fair housing needs,
2. Governmental and non-governmental constraints on housing production, and
3. The results of the prior cycle's programs.

Based on this information, the housing element must then specify policies and programs to ensure adequate sites are available, to affirmatively further fair housing, and to overcome the governmental and non-governmental constraints.

LandWatch focuses on three aspects of the housing element update process:

1. Adequate site inventories to accommodate affordable units,
2. Effective programs to affirmatively further fair housing, and
3. Effective programs to address governmental constraints on housing production.

Areas of Focus for Jurisdictions in the 6th Cycle

Identify Adequate Site Inventories

A compliant housing element must identify an inventory of suitable housing development sites with infrastructure and services. These sites must provide realistic capacity to accommodate the jurisdiction's RHNA, which requires that they be zoned, or will be zoned, at sufficient density to accommodate the number of units at each RHNA affordability category. Zoned density – whether at an acre or other neighborhood area level – is a proxy for affordability levels because higher density dwelling units per acre (du/acre) lowers the cost per square foot for development, whether rented or sold. In practice, an adequate sites inventory must at minimum comply with HCD's Housing Element Site Inventory Guidebook, which specifies the determination of realistic site capacity.²

Focus on Equity - Affirmatively Furthering Fair Housing

² HCD, Housing Element Site Inventory Guidebook, June 10, 2020, available at https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf.

Under AB 686, developing a compliant housing element, or administering any aspect of its housing and community development affairs, requires:

...taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. (Gov. Code, § 8899.50(a)(1); see also Gov. Code, §§ 8899.50(b), 65583(c)(5).)

In practice, this means agencies must at minimum comply with HCD's Affirmatively Furthering Fair Housing guidelines.³ These guidelines are intended to avoid substantial differences in access to opportunities based on race, income, familial status, or disability. Relevant opportunities include education, employment, economic development, safe and decent housing, low rates of violent crime, transportation, and other opportunities, including recreation, food and healthy environment (air, water, safe neighborhoods, safety from environmental hazards, social services, and cultural institutions).

Reduce and Remove Governmental Constraints

Additionally, each jurisdiction must include analysis of governmental constraints to housing production, and must adopt programs to mitigate or remove those constraints (see Government Code, section 65583, subdivisions (a)(5) and (c)(3)). Governmental constraints may include zoning, permitting processes, development standards, fees, etc. Jurisdictions must follow up their existing programs and adopt new programs as necessary in the 6th Cycle to comply with HCD review standards and remove barriers to housing production.

Principles for 6th Cycle Housing Elements

LandWatch will advocate that 6th Cycle housing elements identify sufficient sites for affordable units, affirmatively further fair housing, and remove governmental constraints to housing production. The following principles will inform this advocacy.

1. Provide adequate zoning density and appropriate development standards to support RHNA allocations and minimize sprawl and greenhouse gas emissions.

Jurisdictions must zone sufficient sites and ensure realistic capacity to accommodate their share of “very low,” “low,” and “moderate” income housing. Priority areas for development should be existing high-quality transit corridors, especially in areas designated as highest or high-resource by the AFFH Data Viewer⁴. In Monterey County, these areas include the entirety of the cities of Monterey, Pacific Grove, Carmel-By-The-Sea, Del Monte Forest, unincorporated Carmel Valley, and corridors along highways 68 and 156.

³ HCD, Affirmatively Furthering Fair Housing, April 2021 Update, available at https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf

⁴ <https://www.arcgis.com/apps/webappviewer/index.html?id=4d43b384957d4366b09aeeae3c5a1f60>

HCD requires zoning for a minimum of 20 du/acre to qualify a site as suitable for lower-income housing (low or very low). Going beyond these HCD safe-harbor minimum densities can further lower housing costs; minimize sprawl and vehicle miles travelled; take advantage of existing infrastructure for water, wastewater, utilities, and transportation; and preserve farmland and open space by reducing annexation and greenfield development.

Design standards and zoning should be modified to support and encourage denser urban communities that allow for diverse housing types. Apartments should constitute the majority of new construction, especially for development aimed at affordability to very low-, low-, and moderate-income renters. Compared to single family detached homes, townhomes, and multifamily condominium construction, apartments are the most affordable housing type by design.

Policies and programs to achieve these goals should include some or all of the following:

1. Increase and intensify mixed-use development by
 - allowing mixed use in more commercially zoned areas,
 - increasing the allowable residential densities in mixed-use developments, and
 - decreasing the required percentage and location of commercial use in mixed-use developments
2. Increase maximum densities in urban communities, especially within transit corridors and near public transit routes
3. Eliminate strict units per acre limits entirely in some areas, so as to regulate density only via development standards (e.g. height and setbacks, also known as form-based code). Suitable areas may include transportation corridors, commercial areas, specific plan areas, and areas zoned for multifamily housing
4. Increase height limits and floor area ratios; decrease setback requirements; decrease or eliminate parking requirements
5. Expand upon the state Density Bonus Law by allowing additional bonus density for greater levels or quantities of affordable housing units
6. Broaden city areas zoned for multifamily housing by utilizing tools such as SB 10 to increase density on parcels currently zoned at minimum density
7. Ensure access to common green space areas for new multifamily housing development.

2. Remove or mitigate governmental constraints to housing production.

Localities willing to make needed changes can make significant progress in overcoming governmental constraints, including through changes to zoning, permitting processes, design standards, and fees. Monterey County jurisdictions cited many restrictive practices as obstacles to development in their 5th Cycle housing elements and must again assess these constraints in the 6th Cycle. In addition to the zoning changes identified above, jurisdictions should:

1. Adopt objective design and development standards that facilitate ministerial approval
2. Adopt ministerial (non-discretionary) permitting based on objective design and development standards for:
 1. Multifamily housing projects
 2. Housing or mixed-use projects located in appropriate infill areas

3. Reduce or waive fees and exactions for higher density and affordable development (e.g., by scaling fees based upon square footage instead of number of units). Allow for fee payments to be deferred until certificate of occupancy
4. Incentivize lot consolidation to permit multi-family and rental unit development by reducing impact fees or offering tax abatements, e.g. reduced or postponed property tax collection that rewards affordability

3. Limit annexations to sites needed in the current cycle.

For some cities, annexations may be required to provide sufficient sites to meet RHNA requirements. Limiting annexation areas ensures compact, contiguous development and prevents leap-frogging and sprawl into agricultural land and open space. Monterey County LAFCO policy is to limit annexations to the area needed for 5-7 years of growth. Policies and programs should:

1. Limit annexations to the area actually needed to accommodate the current cycle RHNA, and only once infill development has been maximized
2. Ensure annexed areas are zoned for sufficient density to accommodate both affordable and market rate housing

4. Integrate affordable housing into high opportunity areas.

Affirmatively furthering fair housing is promoted by integrating affordable, higher density housing into high opportunity areas, especially in communities designated as high or highest resource by Tax Credit Allocation Committee (TCAC) standards. Policies and programs should:

1. Educate jurisdictions and property owners on newly created opportunities for multi-family housing in formerly single-family only zones via SB 9 and SB 10
2. Ensure that specific plan areas, whether inside city limits or in annexations, integrate higher density housing equally throughout residential areas
3. Ensure that highest resource communities (including the cities of Monterey, Pacific Grove, Carmel, and the unincorporated region of Carmel Valley) allow for higher density development in multiple areas across the community

5. Invest in infrastructure and fair housing programs for lower resource communities.

Affirmatively furthering fair housing is promoted by investing in the development of high-quality infrastructure and resources for educational and economic opportunity in areas considered of moderate or low resource or of “high segregation and poverty” by TCAC standards. Such investment makes possible the transformation of these communities into higher resource areas with improved outcomes for children and families. Policies and programs should:

1. Utilize Community Development Block Grants to ensure adequate investment in infrastructure, environmental quality, building and health code enforcement to support communities that meet AFFH standards and RHNA housing requirements. Such investment should:
 - a. Increase access to public transportation in lower resource areas with higher frequency transit bus routes

- b. Invest in infrastructure extension or repair for access to clean water, sewer, electricity, and internet services
 - c. Create or strengthen existing programs to educate landlords and community members on fair housing statutes that prevent discriminatory and unlawful behavior
- 2. Zone for commercial nodes to bring employment opportunities and needed commercial access within reasonable walking distance of lower resource areas

6. Support incentives that create affordable (sub-market-rate) housing concurrent with market-rate housing, ideally those which adapt to market conditions.

In view of the failure to meet affordable housing RHNA targets in the 5th Cycle, localities should promote concurrent production of both affordable housing and market rate housing throughout the 6th Cycle. Static affordable housing production programs should become dynamic. Policies and programs should:

- 1. Affect higher proportions of affordability and more efficient use of available sites. In return for higher proportions of affordability, jurisdictions should offer developers some or all of the following incentives:
 - 1. Bonuses to density and floor area ratios
 - 2. Decreased setback and parking requirements
 - 3. Where publicly accessible open space is available within a short distance, reduced open space requirements
 - 4. Reduced and/or deferred impact fees
 - 5. Prioritized permit processing
- 2. Modify entitlement and permitting processes to prioritize housing development projects that contribute to more than one category of RHNA affordability requirements
- 3. Require that specific plan phasing include concurrent development of both affordable and market rate units and high- and low-density sites at the project level
- 4. Design and implement housing subsidy programs capable of adjusting to market conditions through trigger policies tied to interest rates, material costs, or other macroeconomic factors affecting housing production or demand